



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

### Docket Number USCG-2024-0321

### RIN 1625-AA00

### Safety Zone; Lake of the Ozarks Mile Marker 0.1-0.3, Lake of the Ozarks, MO

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all navigable waters of the Lake of the Ozarks at mile marker 0.1 to mile marker 0.3. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a series of fireworks displays. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

**DATES:** This rule is effective from May 25, 2024 through December 31, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0321 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email MST1 Benjamin Conger, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314-269-2573, email [Benjamin.D.Conger@uscg.mil](mailto:Benjamin.D.Conger@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

## **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

## **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule under authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. It is impracticable and contrary to the public interest to publish an NPRM because we must establish this safety zone by May 25, 2024 and lack sufficient time to provide a reasonable comment period and consider those comments before issuing the rule. We must establish the safety zone by May 25, 2024 to guard against potential safety hazards associated with this series of fireworks displays. Potential safety hazards include the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to protect against potential hazards from this series of fireworks displays beginning May 25, 2024.

## **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential

hazards associated with Celebrations Cruise fireworks, on May 25, June 15, July 5, July 6, July 13, July 20, July 27, August 3, August 10, August 17, August 24, August 31, and December 31, 2024, will be a safety concern for anyone within the fallout zone. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the fireworks displays.

#### **IV. Discussion of the Rule**

This rule establishes a safety zone from May 25 through December 31, 2024. The zone will be enforced from 9:30 p.m. until 10:00 p.m. on each of the following days in 2024: May 25, June 15, July 5, July 6, July 13, July 20, July 27, August 3, August 10, August 17, August 24, August 31, and December 31. The safety zone will cover all navigable waters within the outlined fallout zone, on the Lake of the Ozarks, between Mile Markers 0.1 to 0.3. The duration of enforcement of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the fireworks display. No vessel or person will be permitted to transit the safety zone without obtaining permission from the COTP or a designated representative.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on a series of fireworks displays that

impact a one-half mile stretch of the Lake of the Ozarks mile marker 0.1 to mile marker 0.3 on May 25, June 15, July 5, July 6, July 13, July 20, July 27, August 3, August 10, August 17, August 24, August 31, and December 31, 2024 from 9:30 p.m. to 10:00 p.m. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the safety zone, mariners may seek permission to enter the zone.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the

National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will be enforced from 9:30 p.m. to 10:00 p.m. on May 25, June 15, July 5, July 6, July 13, July 20, July 27, August 3, August 10, August 17, August 24, August 31, and December 31, 2024, that will prohibit entry on the Lake of the Ozarks between MM 0.1 to MM 0.3. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### **PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T08-0321 to read as follows:

§ 165.T08-0321 Safety Zone; Lake of the Ozarks, Mile Markers 0.1-0.3, Lake of

the Ozarks, MO.

(a) Location. The following area is a safety zone: all navigable waters of the Lake of the Ozarks at mile marker 0.1 to mile marker 0.3.

(b) Regulations. (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or the COTP's designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or the COTP's designated representative via VHF-FM channel 16, or through USCG Sector Upper Mississippi River at 314-269-2332. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) Enforcement period. This safety zone will be enforced from 9:30 p.m. to 10:00 p.m. on May 25, June 15, July 5, July 6, July 13, July 20, July 27, August 3, August 10, August 17, August 24, August 31, and December 31, 2024.

Dated: May 9, 2024.

A.R. Bender,

Captain, U.S. Coast Guard,  
Captain of the Port Sector Upper Mississippi River.

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